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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,954	02/04/2002	David Frederick Lewin	24895B	6057
22889	7590	10/21/2003		
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			EXAMINER FOSTER, JIMMY G	
			ART UNIT 3728	PAPER NUMBER 17
DATE MAILED: 10/21/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,954

Applicant(s)

LEWIN ET AL.

Examiner

Jimmy G Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The amendment to claim 16 is objected to since "be" should be "the" and since the amendment (and the previous amendment) did not indicate a replacement.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15-17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ingemansson et al (4,569,471). In the reference of Ingemansson et al, glass strands are fed into a muffler outer cylinder 14. As the strands are fed they are blown with a nozzle 9, causing the threads to blow apart so as to form a wool-like texture (col. 3, lines 40-44). Accordingly, the filled strand is texturized. After the glass strands have been deposited into the outer cylinder, a cover plate is temporarily placed over the opening of the cylinder (col. 3, line 67 through col. 4, line 7). Figures 1 and 3 show that the "wool" includes looped/coiled fibers. The length of the outer cylinder 14 becomes filled with the coiled strand (Fig. 1). Inasmuch as the length of the muffler is a much greater dimension than a strand loop/coil, the deposit of the strand will be in multiple layers, as shown in Figures 1 and 3.

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The examiner asserts that the outer cylinder 14 of the muffler constitutes a container since it will contain the strand. The examiner further asserts that the cover plate described constitutes a removable cover since it is temporarily placed and since its placement will prevent loss of strand (due to expansion).

Regarding the amendment filed on July 29, 2003, which calls for wherein the glass strand can be withdrawn for subsequent use, the strand in the muffler of Ingemansson et al is inherently capable of being withdrawn from the muffler since there is nothing disclosed which permanently fastens the strand in the muffler and since the cover is temporary. Moreover, the strand is inherently capable being used in any manner practical if it is withdrawn from the container. This capability meets the intended use limitation, "for subsequent use."

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ingemansson et al (4,569,471) in view of Mattis (3,966,877). The reference of Ingemansson et al also discloses

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that by using the apparatus (which texturizes and coils the strand) the glass "wool" (blown apart strand) may be blown directly into a package instead of a muffler, for the mere production of the wool (col. 4, lines 35-39). Although the reference of Ingemansson et al may not disclose a package closure, the reference of Mattis et al suggests, at the flaps of Figures 2 and 3 and at the abstract of the reference, that a container for strand may be provided with a closure, which is closed by gummed tape, for closing the container after filling, suitable for the purpose of storing and transporting the strand. The closure is inherently removable by cutting the tape so as to open the flaps. Accordingly, it would have been obvious in view of Mattis to have provided the package of Ingemansson et al with a closure in the form of closure flaps, making the package suitable for storage and transportation.

1. Claim 18 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the Ingemansson et al in view of Mattis as applied to claim 15 above, and further in view of Galanes (3,670,949). The reference of Galanes at column 4, lines 55-64 suggests that corrugated cardboard is a suitable material in cartons for giving the walls of the cartons strength. Accordingly, it would have been obvious in view of Galanes to have made the carton of Ingemansson et al, as modified above, of corrugated cardboard to give the carton strength.

6. Applicant's arguments filed July 29, 2003 have been fully considered but they are not persuasive. Applicant has argued

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that, no where does the reference of Ingemansson et al teach or suggest a subsequent use after withdrawal from the muffler. The examiner is not persuaded by this argument since the law of anticipation does not require that an anticipatory reference teach what the applicant is claiming or has disclosed, but only that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference. See Kalman v. Kimberly Clark Corp., 713 F.2d 760, 218 USPQ 871 (Fed Cir. 1983). Furthermore, it is only necessary that the reference include structure capable of performing the recited function in order to meet the functional limitations of a claim. See In re Mott, 557 F.2d 266, 194 USPQ 305 (CCPA 1977). Also see MPEP 2114. Inasmuch as the wool of Ingemansson et al is removable because there is no disclosed fastening means and because the cover is temporary, the wool is inherently capable of being removed for subsequent use. For example, wool if removed from the muffler of Ingemansson et al would inherently be capable of being used as an insulation filling component, a shock protection filling component, a loose pore filter component, a net component, or even a muffler filler component in another muffler. Accordingly, the limitation of Applicant calling for subsequent use is met by the structure of Ingemansson et al.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (703) 308-1505. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (703) 308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Jimmy G Foster
Primary Examiner
Art Unit 3728

JGF
17 October 2003